THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24579 OF 2006

DATED 27th NOVEMBER, 2006

BETWEEN:

Rangu Gundaiah and others

… Petitioners

AND

The District Collector, Karimnagar, and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24579 OF 2006

ORDER:

The petitioners filed the present writ petition assailing the order, dated 04.08.2006 passed by third respondent, whereunder the land assigned to the petitioners was ordered to be resumed to the Government for contravention of the terms of assignment.

The first petitioner and late Thumma Narsaiah were assigned land admeasuring Ac.3.21 guntas in survey Nos.128 and land admeasuring Ac.10.02 guntas in survey No.127 situated at Thangallapally village of Sircilla Mandal of Karimnagar District allegedly after collecting market value from them. This assignment was allegedly made prior to 1955. According to the petitioners, their names were also recorded in revenue records and they were cultivating the lands since then. It is also alleged that they are not assigned lands within the meaning of Section 2(1) of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity) and there was no condition of inalienability as per G.O.Ms.No1406, dated 25.07.1958. Thumma Narsaiah sold the land in survey No.127 to the father of third petitioner, who was cultivating the land. Similarly, petitioners 4, 5 and father of sixth petitioner purchased various extents of lands in survey No.127 after duly verifying the records and satisfied that it is not assigned land. The second petitioner purchased land in survey No.128 under registered sale deed. All of them were cultivating the land. The third respondent issued a show cause notice, dated 21.03.2006 calling upon the petitioners as to why the land should not be resumed for having failed to develop the land and brought into cultivation, and that the assignee transferred the land in contravention of the provisions of the Act as well as G.O.Ms.No.1406. The petitioners submitted explanation. After considering the explanation, the impugned order was passed on 04.08.2006. The petitioners allegedly approached the second respondent to present an appeal but Revenue Divisional Officer (RDO) refused to accept the appeal, and therefore, they filed present writ petition.

Learned counsel for the petitioners, Sri V.V.Ramana Rao, while reiterating the contentions from the affidavit does not dispute that against the order passed by the third respondent, an appeal would lie to the second respondent under Section 4-A of the Act as well as Section 158 of A.P. (Telangana Area) Land Revenue Act, 1317F. He, however, submits that the second respondent refused the appeal and

pass orders, and therefore, the writ petition is filed.

The matter was initially heard before the lunch recess. The learned Assistant Government Pleader sought for passover of the matter to get instructions from the RDO. After getting instructions, he submitted in the afternoon that the petitioners never approached the second respondent nor they presented any appeal. He also submitted that as and when appeal is submitted, the second respondent would consider the same and pass appropriate orders. The petitioners, therefore, requested this Court to give liberty to the petitioners to approach the second respondent.

Both the counsel rightly submitted that an appeal would lie against the order of third respondent to second respondent. Therefore, in the first instance, the petitioners should avail this remedy, which is an effective, efficacious and alternative redressal procedure. Therefore, without expressing any opinion on the merits of the case, the writ petition is disposed of giving liberty to the petitioner to prefer an appeal within a period of one week from the date of receipt of copy of this order. As and when appeal is preferred, the second respondent shall entertain the same and pass appropriate orders in accordance with law.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

27.11.2006.
pln